



House of Representatives

File No. 615

General Assembly

February Session, 2012

(Reprint of File No. 396)

Substitute House Bill No. 5447
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 2, 2012

AN ACT CONCERNING AQUATIC ANIMALS AS FOOD AND THE TAKING OF SCALLOPS FROM THE NIAHTIC RIVER.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) As used in this
2 section:

3 (1) "Aquaculture producer" means any person who engages in the
4 controlled rearing, cultivation and harvesting of aquatic animals in
5 land-based or marine-based culture systems, tanks, containers,
6 impoundments, floating or submerged nets or pens and ponds.

7 (2) "Aquatic animals" means fresh or saltwater finfish, crustaceans
8 and other forms of aquatic life, including jellyfish, sea cucumber and
9 sea urchin, and the roe of such animals, and all mollusks, which are
10 intended for human consumption. "Aquatic animals" does not include
11 birds or mammals.

12 (b) The Commissioner of Agriculture shall license and inspect
13 aquaculture producers. The commissioner may prescribe the length of

14 term, fee and application for such license. To receive an aquaculture
15 producer license from the commissioner, each aquaculture producer
16 shall: (1) Possess a registration with the United States Food and Drug
17 Administration as a food facility, (2) meet all processing standards and
18 inspection procedures for seafood processing facilities, including, but
19 not limited to, compliance with the provisions of 21 CFR 123--Fish and
20 Fishery Products, Subpart A and the United States Food and Drug
21 Administration's Food Code, as from time to time amended, and (3)
22 pass an inspection conducted by the Department of Consumer
23 Protection prior to the issuance of such license by the commissioner.

24 (c) The Commissioner of Agriculture, in accordance with chapter 54
25 of the general statutes and in consultation with the Commissioner of
26 Consumer Protection, may adopt regulations to implement the
27 provisions of this section.

28 Sec. 2. Section 26-287 of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective July 1, 2012*):

30 (a) The Waterford-East Lyme shellfish commission shall consist of
31 four electors of each of said towns appointed by their respective
32 boards of selectmen. Annually such board shall appoint an elector as a
33 member of said commission who shall serve for a term of four years
34 from June first in the year of his appointment. Neither of said towns
35 shall be represented on said commission by more than two members of
36 the same political party. Any vacancies that may from time to time
37 occur shall be filled for the balance of the unexpired term by the board
38 of selectmen of the town which, because of such vacancy, has one less
39 member on said commission. Said commission may prohibit the taking
40 of [escallops] scallops, clams and oysters from such portions of the
41 Niantic River as it designates, for a period not exceeding one year at a
42 time, designate, from time to time, the manner in which said shellfish
43 may be taken and license such taking and, in connection therewith,
44 adopt reasonable regulations and fix license and permit fees. When
45 said commission designates any place or places in said river from
46 which the taking of [escallops] scallops, oysters and clams is to be

47 prohibited or designates a new manner in which [escallops] scallops,
48 clams and oysters may or may not be taken, or adopts, rescinds or
49 amends any regulation or license or permit fee adopted hereunder, it
50 shall cause to be published at least twice, in a newspaper having a
51 circulation in each of said towns, a notice describing the place or places
52 upon which such prohibition is to be operative or the manner in which
53 [escallops] scallops, oysters or clams may or may not be taken, or the
54 regulation, license or permit fee adopted, rescinded or amended, and
55 shall post copies of such notices upon the shores of the river. No
56 person shall take any [escallops] scallops, oysters or clams from any
57 grounds from which the taking of the same has been prohibited during
58 the time of such prohibition nor in any manner in violation of any such
59 designation or regulation.

60 (b) No person shall, at any time, take any [escallops] scallops which
61 may pass through a [two-inch] two and one-half inch ring or more
62 than three bushels of [escallops] scallops in any one day, provided said
63 commission may increase or decrease the daily limit at any time after it
64 has been in force for thirty days.

65 (c) All constables and other informing officers of either of said
66 towns shall inquire after and prosecute for any violation of this section.
67 For the purpose of enforcing the same, all constables in either of said
68 towns shall have supervision and jurisdiction over that part of the
69 waters of the Niantic River from Golden Spur Bridge southerly to the
70 highway bridge at the Rope Ferry Road, so called, and all offenses
71 committed within said limits, in the same manner and to the same
72 extent as though said portion of said river was within the town within
73 which such officials have jurisdiction.

74 (d) Said commission may designate special officers for the
75 enforcement of this section whose compensation shall be determined
76 by the commission. All moneys collected by either the town of
77 Waterford or the town of East Lyme under the provisions of this
78 section shall be paid to the commission and used by it for the
79 protection and propagation of [escallops] scallops, oysters and clams

80 and other shellfish in the waters of the Niantic River.

81 (e) Any person who violates any provision of this section or any
82 regulation adopted pursuant to this section shall be fined not more
83 than two hundred dollars or imprisoned not more than ten days or
84 both, and upon conviction the court may order that such person shall
85 not be entitled to a permit or license to take [escallops] scallops, oysters
86 and clams from the Niantic River until the beginning of the second
87 season the river is opened by the commission following such
88 conviction.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>July 1, 2012</i>	26-287

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which requires the Department of Agriculture (DAG) to license and inspect aquaculture producers, is not anticipated to result in a fiscal impact.

House "A" eliminates the requirement that DAG adopt regulations and instead requires the agency to license and inspect aquaculture producers, resulting in the fiscal impact described above.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5447 (as amended by House "A")******AN ACT CONCERNING AQUATIC ANIMALS AS FOOD AND THE TAKING OF SCALLOPS FROM THE NIAN TIC RIVER.*****SUMMARY:**

This bill requires the agriculture commissioner to license and inspect aquaculture producers. It allows him to (1) prescribe the license term, fee, and application and (2) adopt implementing regulations in consultation with the consumer protection commissioner. It specifies license criteria for aquaculture producers.

The bill increases, from two to two-and-a-half inches, the minimum size of scallops that a person can take from the Niantic River. It allows the Waterford-East Lyme shellfish commission to increase or decrease the daily limit of scallops a person can take, rather than just increase it.

The bill also makes technical changes.

*House Amendment "A" eliminates the requirement in the original file that the agriculture commissioner adopt regulations for licensing and inspecting aquaculture facilities that cultivate, process, and supply aquatic animals for human consumption. Instead, it requires him to license and inspect aquaculture producers.

EFFECTIVE DATE: July 1, 2012, except for the provisions regarding aquaculture producers, which are effective October 1, 2012.

AQUACULTURE PRODUCERS

The bill defines "aquaculture producer" as anyone who engages in the controlled rearing, cultivation, and harvesting of aquatic animals in land- or marine-based culture systems, tanks, containers,

impoundments, floating or submerged nets, or pens and ponds. “Aquatic animals” are fresh or saltwater finfish, crustaceans, and other aquatic life forms, including jellyfish, sea cucumber, sea urchins, their roe, and mollusks, that are intended for human consumption.

Under the bill, to receive a license, an aquaculture producer must:

1. be registered with the U.S. Food and Drug Administration as a food facility;
2. meet all processing and inspection standards for seafood processing facilities, including compliance with federal law; and
3. pass inspection by the Department of Consumer Protection.

NIANTIC RIVER SCALLOPS

By law, the Waterford-East Lyme shellfish commission may regulate the taking of scallops, clams, and oysters from the Niantic River.

Current law prohibits taking (1) any scallop that passes through a two-inch ring or (2) more than three bushels of scallops a day. But the commission may increase the daily limit after it has been in place for 30 days. The bill instead prohibits taking any scallop that passes through a two-and-a-half-inch ring, thereby increasing the minimum size of scallops that a person may take. It maintains the three-bushel limit, but the commission may increase or decrease it after 30 days.

By law, a violator is subject to a fine of up to \$200, imprisonment of up to 10 days, or both. Upon conviction, the court may order that the violator cannot hold a permit or license to take shellfish in the Niantic River until the second season following the conviction.

BACKGROUND

Related Bill

sHB 5145 (§41) reduces the penalty for illegal shellfishing in the Niantic River from a criminal offense to a violation, for which one

must go to court, subject to a fine of up to \$250.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 29 Nay 0 (03/23/2012)